

## REMARKS

This Amendment and Response are made in reply to the Office Action dated March 2, 2005, in which the following objections/rejections were made:

The drawings were objected to, based on an improper lead line;

Claims 7 and 16 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite for terms lacking antecedent basis;

Claims 1, 2, 4, 5, 7, 9-11, 13, 14, 16, and 18-20 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 1,381,590 to Oliver.

Claims 1, 2, 4, 5, 7, 9-11, 13, 14, 16, and 18-20 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,502,495 to Beary.

Claims 1, 2, 4-11, and 13-20 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,098,311 to Savioli.

Claims 1, 2, 8, 10-11, 17, 19, and 20 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,714,334 to Harvey.

Claims 3 and 12 were objected to on the basis of dependence on rejected base claims.

Applicant respectfully traverses these rejections below. Claims 1-20 are currently pending, claims 1, 4, 6, 7, 10, 13, 15, 16, 19, and 20 have been amended, leaving claims 1-20 pending in this application.

### Objection to the Drawings

Regarding the objection to the drawings, lead line 216 is directed to the outer wall of the magazine. Lead line 204, on the other hand, is directed to the butt plate of

the magazine, Figs. 5 and 6; para. [0039], which does not define the plane of the magazine wall. Applicant respectfully submits that this explanation renders the drawing objection moot.

35 U.S.C. § 112, ¶ 2, Rejection of Claims 7 and 16

Regarding the indefiniteness rejections of claims 7 and 16, Applicant respectfully submits that all claim terms, as amended, have the proper antecedent basis. Applicant thanks the Examiner for drawing this to our attention.

35 U.S.C. § 102(b) Rejections of Claims 1, 2, 4, 5, 7, 9-11, 13, 14, 16 and 18-20 based on Oliver

Regarding the anticipation rejections based on Oliver, Applicant's independent claims 1, 10, and 20 recite "a removable, non-rotary magazine." Oliver discloses a non-removable magazine (see Figs. 1 and 5). As Oliver does not disclose all of the recitations of independent claims 1, 10, and 20, Applicant respectfully submits that for at least this reason claims 1-20 are allowable over Oliver.

35 U.S.C. § 102(e) Rejections of Claims 1, 2, 4, 5, 7, 9-11, 13, 14, 16, and 18-20 based on Beary

Regarding the anticipation rejections based on Beary, Applicant's independent claims 1, 10, and 20 recite "a removable, non-rotary magazine." Beary discloses only a rotary magazine (see Abstract, Figs. 1-66). As Beary does not disclose all of the recitations of independent claims 1, 10, and 20, Applicant respectfully submits that for at least this reason claims 1-20 are allowable over Beary.

35 U.S.C. § 102(b) Rejections of Claims 1, 2, 4-11, and 13-20 based on Savioli

Regarding the anticipation rejections based on Savioli, Applicant's independent claims 1, 10, and 20 recite, respectively:

"...a distal end of said protruding lip extends beyond a plane defined by an outer wall of said magazine." (claim 1)

"... a distal end of said protruding lip is urged by said biasing member to extend beyond a plane defined by an outer wall of said magazine." (claim 10)

"...biasing a distal end of said protruding lip to extend beyond a plane defined by an outer wall of said magazine..." (claim 20)

Savioli does not disclose a lip protruding that extends "beyond a plane defined by an outer wall of said magazine." Savioli's magazine follower 56 never extends beyond the outer wall of magazine 14 (Figs. 1-4, copy of Figs. 2-4 attached with pertinent features indicated). This is most clearly seen in Fig. 2, where the edge of follower 56 appears to travel vertically in a notch *within* the wall of magazine 14 (see dotted lines). Even when follower 56 has reached the upper end of its travel (Figs. 3 and 4), the outer edge of 56 never extends beyond the wall of magazine 14. Savioli discloses that it is only the upward movement of the magazine follower that engages the bolt stop (col. 3, lines 26-35), and never recites an outward biasing of the follower to allow engagement of the stop. Further demonstrating that Savioli does not disclose a lip protruding beyond "a plane defined by an outer wall of said magazine," are Savioli's claims 2 and 4, in each of which is disclosed that the bolt stop is mounted such that a portion is *inside* the magazine receiver so as to "lie in the path of the magazine follower." Compare to Applicant's Specification para. [0024]:

It is another object of the present invention to provide a magazine and slide lever assembly which does not require a portion of the slide lever to protrude into the body of the magazine.

While this object can be achieved with Applicant's claims 1, 10, and 20, it cannot with the device disclosed by Savioli, which always shows bolt stop portion 40 extending inside the magazine receiver 16 and inside the plane of the outer wall of magazine 14 (Figs. 2-5).

As Savioli does not disclose all of the recitations of independent claims 1, 10, and 20, Applicant respectfully submits that for at least this reason claims 1-20 are allowable over Savioli.

#### 35 U.S.C. § 102(b) Rejections of Claims 1, 2, 8, 10-11, 17, 19, and 20 based on Harvey

Regarding the anticipation rejections based on Harvey, Applicant's independent claims 1, 10, and 20 recite, respectively:

"...a distal end of said protruding lip extends beyond a plane defined by an outer wall of said magazine." (claim 1)

"... a distal end of said protruding lip is urged by said biasing member to extend beyond a plane defined by an outer wall of said magazine." (claim 10)

“...biasing a distal end of said protruding lip to extend beyond a plane defined by an outer wall of said magazine...” (claim 20)

Harvey does not disclose a lip protruding that extends “beyond a plane defined by an outer wall of said magazine.” As shown in Fig. 16 (attached with notations), lug 273 is completely within the plane defined by the outer wall of magazine 239. Harvey does not disclose biasing the lug 273 outside the outer wall plane but only raising the lug “upwardly,” where it engages the bolt directly (not indirectly, via a slide lever). Even if lug 273 were physically able to extend beyond the magazine outer wall plane, which does not appear possible, it would be prevented from doing so by engagement with the bolt. The bolt would forcibly hold lug 273 within the outer wall plane, as shown in Fig. 16.

As Harvey does not disclose all of the recitations of independent claims 1, 10, and 20, Applicant respectfully submits that for at least this reason claims 1-20 are allowable over Harvey.

#### Objection to Claims 3 and 12

As Applicants respectfully submit that independent claims 1 and 10 are both allowable, this renders unnecessary any specific response to the objection of claims 3 and 12 as dependent on rejected base claims.

#### No New Matter

Applicant respectfully submits that nothing in the current amendment constitutes new matter. The recitation of “a removable, non-rotary magazine” in claims 1, 10, and 20 find support at least in Fig. 5, where such a magazine is pictured. Amendments to claims 7 and 16 simply provided for proper antecedent basis, and did not substantially alter those claims. Amendments to claims 4, 6, 13, 15, and 19 merely corrected minor typographical errors.

Conclusion

As Applicant has traversed each and every objection/rejection raised by the Examiner, it is hereby respectfully requested that Examiner withdraw the rejections of claims 1-20, and pass claims 1-20 to issue.

Please charge our Deposit Account No. 13-0235 for any fees owed for the accompanying One Month Extension of Time. No other fees are considered to be due; however, if it is determined that payment of a fee is required, please charge our Deposit Account No. 13-0235 for these fees as well.

Do not hesitate to call Applicants' attorneys at the number below if they may help expedite the prosecution of this application in any way.

Respectfully submitted,

By 

Nicholas J. Tuccillo, Esq.  
Registration No. 44,322  
Attorney for Applicant(s)

McCORMICK, PAULDING & HUBER LLP  
CityPlace II, 185 Asylum Street  
Hartford, CT 06103-4102  
Tel: (860) 549-5290  
Fax: (413) 733-4543